

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY MOSCOW

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E.O. 11652: GDS

TAGS: EAIR, UR

SUBJECT: OFFICIAL PROTEST ON AEROFLOT TICKETING PRACTICES

REF: MOSCOW 10432 AND PREVIOUS

1. USG CONCURS IN EMBASSY PROPOSAL TO SEND DIPLOMATIC
NOTE TO MFA PROTESTING AEROFLOT TICKETING PRACTICES.
PLEASE ADVISE WHEN NOTE HAS BEEN PRESENTED AS DEPARTMENT
ALSO PLANS PRESENT COPY OF NOTE TO SOVIET EMBASSY
REPRESENTATIVE AND TO EXPRESS OUR DISSATISFACTION WITH
SOVIET NONCOMPLIANCE WITH CIVAIR TRANSPORT AGREEMENT.

2. ACTION REQUESTED: EMBASSY SHOULD DELIVER FOLLOWING
NOTE -- MODIFIED SLIGHTLY FROM REFTEL TEXT -- TO MFA AT
APPROPRIATE LEVEL: BEGIN TEXT: THE EMBASSY OF THE
UNITED STATES OF AMERICA DRAWS THE ATTENTION OF THE
MINISTRY OF FOREIGN AFFAIRS TO CERTAIN PROBLEMS WHICH
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HAVE RECENTLY ARisen IN THE IMPLEMENTATION OF THE CIVIL

AIR TRANSPORT AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS. THE MINISTRY MAY RECALL THAT SUBPARAGRAPH 3 OF ARTICLE 14 OF THAT AGREEMENT, SIGNED IN WASHINGTON ON NOVEMBER 4, 1966, AS AMENDED, PROVIDES THAT: PASSENGERS INTENDING

TO UNDERTAKE A TRIP, REGARDLESS OF THEIR CITIZENSHIP, SHALL BE FREE TO CHOOSE THE AIRLINE OR AIRLINES. THEY SHALL BE FREE, WHEN PAYING FOR THE AIR SERVICE, TO PAY FOR IT IN THE CURRENCY OF THAT COUNTRY WHERE THE PAYMENT TAKES PLACE IF THE TRAFFIC OF THE CARRIER PROVIDESFOR PAYMENT IN SUCH CURRENCY. IT IS OUR UNDER- STANDING FURTHER THAT AEROFLOT, ACTING AS THE GENERAL SALES AGENT IN THE U.S.S.R. FOR PAN AMERICAN WORLD AIRWAYS UNDER THE CONDITIONS OF THE OPERATING AGREEMENT BETWEEN THE TWO AIRLINES, HAS ACCEPTED THE OBLIGATION TO PREPARE TICKETS FOR ALL SERVICES FOR PAN AMERICAN CUSTOMERS UPON REQUEST.

3. ACCORDING TO THE INFORMATION AVAILABLE TO THIS EMBASSY, DESPITE THIS MUTUAL COMMITMENT TO THE PASSENGER'S RIGHT OF FREE CHOICE OF AIRLINE, SINCE MAY 7, 1976 SEVERAL INSTANCES HAVE ARISEN IN WHICH AEROFLOT HAS FAILED TO COMPLY WITH THIS OBLIGATION. THE FOLLOWING EXAMPLES ARE ILLUSTRATIVE: ON MAY 7 AEROFLOT ISSUED TO FOURTEEN PAN AMERICAN CUSTOMERS TICKETS PRESCRIBING FLIGHT ON THE ROME-NEW YORK SEGMENT OF A MOSCOW-LOS ANGELES ITINERARY VIA AN AIRLINE OTHER THAN PAN AMERICAN AND NOT OF THE PASSENGERS' CHOICE; AEROFLOT REFUSED TO FULFILL SIX SIMILAR TICKET REQUESTS ON MAY 12; ON MAY 18 AEROFLOT REJECTED A PAN AMERICAN REQUEST TO ISSUE THIRTEEN TICKETS FOR THE NEW YORK-LOS ANGELES PORTION OF A MOSCOW-ROME-NEW YORK-LOS ANGELES ITINERARY; ON MAY 14 AEROFLOT REFUSED A REQUEST TO ISSUE A TICKET FOR PROFESSOR EDWIN HEWITT, A UNITED STATES CITIZEN THEN WORKING IN MOSCOW UNDER THE TERMS OF THE U.S.-U.S.S.R. SCIENTIFIC EXCHANGE PROGRAM WHO WISHED TO TRAVEL VIA AEROFLOT TO TEHRAN AND THEN VIA PAN AMERICAN TO THE UNITED STATES WITH SEVERAL INTERMEDIATE STOPS.

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4. THE MINISTRY WILL RECALL THAT THESE MATTERS WERE RAISED BY THE UNITED STATES DELEGATION DURING THE BILATERAL CIVIL AVIATION DISCUSSIONS IN WASHINGTON MAY 17- 21. AT THAT TIME THE CHIEF OF THE UNITED STATES DELE- GATION POINTED OUT THAT ARTICLE 1 OF THE BILATERAL AIR TRANSPORT SERVICES AGREEMENT, WHICH HAS TO DO WITH AGREED SERVICES, IS ONLY ONE AMONG OTHER ARTICLES OF THIS DOCUMENT, IS PARALLEL TO THEM AND IN NO SENSE OVER-

RIDES THE PROVISIONS OF ARTICLE 14, WHICH CLEARLY APPLIES TO ALL SERVICES WHETHER AGREED OR NOT. ARTICLE 1 DOES NOT LIMIT RIGHTS EXCHANGED UNDER THE BILATERAL AGREEMENT TO THE AGREED SERVICES, AS THE CHIEF OF THE U.S.S.R. DELEGATION HAD INSISTED; RATHER, IT PROVIDES THAT RIGHTS ARE GRANTED UNDER THE BILATERAL AGREEMENT

FOR THE PURPOSE OF ESTABLISHING AND OPERATING THE AGREED SERVICES. CERTAIN OF THE ARTICLES CONFERRING THESE RIGHTS ARE IN FACT LIMITED BY THEIR TERMS TO THE AGREED SERVICES, WHILE OTHER ARTICLES, SUCH AS ARTICLE 14, CONTAIN NO SUCH LIMITATION. AEROFLOT'S REFUSAL TO ISSUE TICKETS FOR NON-AGREED PAN AMERICAN SERVICES IS THUS A MATTER OF GREAT CONCERN AS THIS ACTION EXPRESSLY VIOLATES ARTICLE 14. THE MATTER WAS RAISED AGAIN BY THE CHAIRMAN OF THE UNITED STATES DELEGATION IN THE COURSE OF THE BILATERAL CIVIL AVIATION DISCUSSIONS IN MOSCOW BETWEEN JUNE 7 AND 11.

5. TO THIS TIME PAN AMERICAN WORLD AIRWAYS CONTINUES TO ENCOUNTER SIMILAR TICKETING PROBLEMS IN MOSCOW. EXCEPTING A FEW PASSENGERS WITH TICKETS PREPAID FROM THE UNITED STATES, NO SOVIET PASSENGERS ARE BEING ISSUED TICKETS FOR TRAVEL ON PAN AMERICAN FLIGHTS. AEROFLOT CURRENTLY ACCEPTS PAYMENT IN RUBLES FROM NON-SOVIET PASSENGERS ONLY FOR TRAVEL ON AGREED SERVICES AND REQUIRES THAT THE COSTS OF ALL OTHER SEGMENTS OF A GIVEN ITINERARY BE PAID IN UNITED STATES DOLLARS. AEROFLOT IS NOT ACCEPTING ORDERS FOR TICKETS TO BE PURCHASED IN RUBLES FOR TRAVEL BEGINNING OUTSIDE THE U.S.S.R. ON ANY PAN AMERICAN FLIGHT INCLUDING AGREED SERVICES.

6. THE EMBASSY OF THE UNITED STATES OF AMERICA NOTES
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THAT THESE ACTIONS OF AEROFLOT DIRECTLY CONTRAVENE THE PROVISIONS OF ARTICLE 14 OF THE 1966 CIVIL AIR TRANSPORT AGREEMENT AND MUST INSIST THAT STEPS BE TAKEN WHICH WILL RESULT IN COMPLIANCE WITH ARTICLE 14 OF THE AGREEMENT. SATISFACTORY RESOLUTION OF THIS PROBLEM WOULD REPRESENT A NECESSARY STEP IN THE CONSIDERATION OF ANY NEW INTERGOVERNMENTAL CIVIL AVIATION ARRANGEMENTS, WHILE CONTINUED FAILURE OF THE SOVIET AUTHORITIES TO COMPLY WITH THE PROVISIONS OF THE AGREEMENT WILL REQUIRE THAT THE U.S. AUTHORITIES CONSIDER APPLYING APPROPRIATE RESTRICTIONS ON AEROFLOT'S ACTIVITIES IN THE U.S. END TEXT.

7. FYI: WE HAVE BEEN INFORMALLY ADVISED THAT THE CAB IS CONSIDERING WHETHER TO ISSUE ORDER UNDER SECTION 412 REQUIRING ALL AEROFLOT TICKETS SOLD IN THE U.S. TO BE

WRITTEN ON PAN AM TICKET STOCK. THE CAB, HOWEVER, HAS AGREED TO HEAR FROM THE DEPARTMENT BEFORE PROCEEDING FORMALLY. WE CONSIDER, THEREFORE, THE SOVIETS' REACTION TO OUR REPRESENTATIONS, TO BE CRITICAL AS TO WHEN AND WHETHER THAT ORDER IS ISSUED. END FYI. KISSINGER

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